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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,602	10/27/2003	Christoph Rohr	ZTP01P11002	3523
24131	7590	09/24/2004	EXAMINER	
LERNER AND GREENBERG, PA P O BOX 2480 HOLLYWOOD, FL 33022-2480			BRAHAN, THOMAS J	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,602

Applicant(s)

ROHR, CHRISTOPH

Examiner

Thomas J. Brahan

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>October 27, 2003</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

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1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the one piece arrangement for the two drive units of claims 4 and 5, the unloading apparatus with two insertion devices of claim 11, and the retaining means moving in a direction counter to the insertion device direction of claims 12 and 13, must be shown, or the features must be canceled from the claims. No new matter may be entered.

2. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 8, 9, and 11-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The structure of the drive unit arrangement is not understood. The apparatus is claimed as having two drive units, one drive unit for the conveyor and another drive unit for the insertion device. Somehow applicant is considering these drive units as one piece. Is applicant attempting to claim two drive units mounted together, or one drive unit for both movements? The claim language is contradictory and the specification is vague. The arrangement of the two insertion device loading apparatus of claim 11 is not understood. Are these two distinct insertion devices or are they both located on the same loading and unloading apparatus? The structure of the retainer of claims 12 and 13 is not understood. It is recited as moving "counter to the direction of movement of said insertion device". It is unclear as to how the retaining device (24) moves, and in what direction it moves.

4. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

5. Claims 6-9 and 11-14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. It is unclear as to how claims 6 and 7 can recite that the conveyor speed is higher than the insertion device, as there is no basis in the claims for the insertion device having a speed.

b. In claims 8 and 9, it is unclear as to how the applicant is considering the two drive units as "in one piece".

c. In claim 11, it is unclear as to how the applicant is considering the loading apparatus as having an insertion device that is at least two insertion devices. Where is this structure shown in the drawings or

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detailed in the specification?

d. In claims 12 and 13, it is unclear as to how the retaining means can be claimed as moving in a direction counter to the direction of the insertion means. Retaining means (24) does not appear to be moveable longitudinally with respect to the insertion means.

e. It is unclear as to how claim 14 fails defines the claimed invention as it lacks any limitations drawn to the structure of the apparatus and only appears to be claiming an intended use.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4-7, 11, and 14-16, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Ramsay. Ramsay shows an apparatus for at least one of loading and unloading goods units to and from a transport compartment, comprising:

at least one conveying unit (sweep S) to be installed in a loading area, the conveying unit simultaneously conveying the goods units and having at least one insertion device (platform B alone or taken with its supports) adapted to be inserted into the transport compartment, said insertion device forming an area on which the goods units are to be placed.

The insertion device (B) is supported on rollers (R, R'), as recited in claim 2. A drive unit (Q) is disposed at the insertion device for driving the conveyor, as recited in claims 4 and 5. It drives the conveyor at a speed greater than the speed of the insertion device (which is zero during loading), as recited in claims 6 and 7. The insertion device is two devices (its moving platforms) disposed transversely with respect to the loading and unloading direction of the conveyor unit (S) as recited in claim 11. The insertion device is mounted beside a railroad track and moves transversely thereto, as recited in claim 14.

8. Claims 1, 4-7, 11, and 14-17, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Brannon et al. Brannon et al shows an apparatus for at least one of loading and unloading goods units to and from a transport compartment, comprising:

at least one conveying unit (24) to be installed in a loading area, the conveying unit simultaneously conveying the goods units and having at least one insertion device (chute 2) adapted to be inserted into the transport compartment, said insertion device forming an area on which the goods units are to be placed.

A drive unit (17) is disposed at the insertion device (2) for driving the conveyor, as recited in claims 4 and 5. It drives the conveyor at a speed greater than the speed of the insertion device (which is zero), as recited in claims 6 and 7. The insertion device is two devices (its telescopic sections) disposed transversely with respect to

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the loading and unloading direction of the conveyor unit (24) as recited in claim 11. The insertion device is mounted beside a railroad track and moves transversely thereto, as recited in claim 14. The inserting means (chute 2) is a conveyor, as recited in claim 17.

9. Claims 1, 3-7, 11-16, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Young. Young shows an apparatus for at least one of loading and unloading goods units to and from a transport compartment, comprising:

at least one conveying unit (conveyor 27) to be installed in a loading area, the conveying unit simultaneously conveying the goods units and having at least one insertion device (carriage 10 or segmented frames 24) adapted to be inserted into the transport compartment, said insertion device forming an area on which the goods units are to be placed.

The insertion device (carriage 10) has rollers, as recited in claim 3. A drive unit (29) is disposed at the insertion device (10) for driving the conveyor, as recited in claims 4 and 5. It drives the conveyor at a speed greater than the speed of the insertion device (which is zero), as recited in claims 6 and 7. There are two insertion devices (24) disposed transversely with respect to the loading and unloading direction, as the loading and unloading direction can be of the direction of chute (16) into the rail car, or it can be the direction of conveyor unit (27) when in the car, as recited in claim 11. Young has a retaining means (16) moving in a direction counter to the insertion device (24), as claims 12 and 13 are best understood. The insertion device is mounted beside a railroad track and moves transversely thereto, as recited in claim 14.

10. Claims 1, 3-9, 11, and 14-16, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Buffum. Buffum shows an apparatus for loading goods units into a transport compartment, comprising a conveying unit (46) moveable into a loading area for simultaneously conveying the goods units and an insertion device (the carriage 22-25) adapted to be inserted into the transport compartment and forming an area on which the goods units are to be placed (at its distal end adjacent feed-chute 74). The insertion device (the carriage) is supported on rollers (26), as recited in claim 3. A drive unit (33) is disposed at the insertion device (22) for driving the conveyor, as recited in claims 4 and 5. It drives the conveyor at a speed greater than the speed of the insertion device (which is zero), as recited in claims 6 and 7. The drive unit moves the insertion device, as claims 8 and 9 are best understood. The rails (21) can be considered as part of the insertion device as to have it as two devices disposed transversely with respect to the loading and unloading direction of the conveyor unit (46) as recited in claim 11. The insertion device is mounted beside a railroad track and moves transversely thereto, as recited in claim 14. The inserting means (the carriage) forms an area on which goods are placed, at its area under the conveying unit, as recited in claims 15 and 16.

11. Claims 1-7, 10, 11, and 14, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Vivian. Vivian shows an apparatus for loading goods units into a transport compartment,


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comprising a conveying unit (44) to be installed in a loading area for simultaneously conveying the goods units and having an insertion device (either the moving carriage or the extending conveyor frame) adapted to be inserted into the transport compartment and device forming an area on which the goods units are to be placed. The insertion device (the extending conveyor) is lifted and lowered by tilting about blocks (17), as recited in claims 2 and 10. The insertion device (the carriage) is supported on rollers (8), as recited in claim 3. A drive unit (64) is disposed at the insertion device for driving the conveyor, as recited in claims 4 and 5. It drives the conveyor at a speed greater than the speed of the insertion device (which is zero during loading), as recited in claims 6 and 7. The insertion device is mounted beside a railroad track and moves transversely thereto, as recited in claim 14.

12. Claims 1, 4-7, 15-18, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Andrews et al. Andrews et al shows an apparatus for loading goods units into a transport compartment, comprising a conveying unit (pusher 16) to be installed in a loading area for simultaneously conveying the goods units and having an insertion device (loader 10) adapted to be inserted into the transport compartment. A drive unit (20) is disposed at the insertion device for driving the conveyor, as recited in claims 4 and 5. It drives the conveyor and the insertion device at the same time with a speed greater than the speed of the conveyor than the speed of the insertion device (see column 1, lines 57-63), as recited in claims 6, 7, and 18.

13. Gebbardt, Hayashi, Boucher et al, Bonnet and Aurora et al are cited as showing similar loaders.

14. An inquiry concerning this communication should be directed to Thomas J. Brahan at telephone number (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306.

  
Thomas J. Brahan  
Primary Examiner  
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